

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-0615V

Filed: September 30, 2016

UNPUBLISHED

GILMORE WRIGHT, II,

*

*

Petitioner,

*

v.

*

*

SECRETARY OF HEALTH

*

AND HUMAN SERVICES,

*

*

Respondent.

*

*

Paul Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.

Voris Johnson, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On May 25, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that he suffered injuries, including left rotator cuff syndrome, as a result of an influenza (“flu”) vaccine administered to his left deltoid on November 7, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 20, 2016, a ruling on entitlement was issued, finding petitioner entitled to compensation. On September 30, 2016, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$76,380.24. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$76,380.24, in the form of a check payable to petitioner, Gilmore Wright, II.** This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

On July 18, 2016, respondent filed her Rule 4(c) Report, in which she recommended that the Court find petitioner, Gilmore Wright, II, entitled to compensation for a shoulder injury related to vaccine administration (“SIRVA”). On July 20, 2016, the Court entered its Ruling on Entitlement, finding petitioner entitled to compensation. Respondent now proffers that petitioner receive an award of compensation as follows:

A lump sum of **\$76,380.24** in the form of a check payable to petitioner. This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled.¹

Petitioner agrees with the proffered award of \$76,380.22.²

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.

² This proffer does not include any award for attorneys' fees and costs that may be awarded pursuant to 42 U.S.C. § 300aa-15(e).

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Acting Deputy Director
Torts Branch, Civil Division

GLENN A. MACLEOD
Senior Trial Counsel
Torts Branch, Civil Division

/s/ Voris E. Johnson, Jr.
VORIS E. JOHNSON, JR.
Senior Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel.: (202) 616-4136

Dated: September 30, 2016